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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

JORGE ENRIQUE TORRES-VIERA,
a/k/a "Enrique,"

Defendant.

CASE NOS.: CR 19-367 WHA EDL-5

~~[PROPOSED]~~ ORDER DETAINING DEFENDANT
JORGE ENRIQUE TORRES-VIERA PRIOR TO
TRIAL

On July 26, 2019, defendant Jorge Enrique Torres-Viera, a/k/a “Enrique,” was charged in a criminal complaint with conspiracy to distribute controlled substances in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(C). *See* Case No. 19-71145 TSH. On August 8, 2019, Torres-Viera was charged in an indictment with conspiracy to distribute controlled substances in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(B). *See* 19-367 WHA. The defendant was arraigned on August 9, 2019, and on the same day the matter came before this Court for a detention hearing. The defendant was present and represented by Charles Woodson, Esq.

Pretrial Services submitted a report that recommended detention based on risk of flight. A representative of Pretrial Services was also present at the hearing. The Government moved for

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CR 19-367 WHA EDL-5

1 detention, and the defendant opposed. The parties submitted proffers and arguments.

2 Upon consideration of the Pretrial Services report, the court file, the government's memorandum
3 in support of its motion, and the parties' proffers at the detention hearing, the Court finds by a
4 preponderance of the evidence that, at least at this time, there is no condition or combination of
5 conditions that will reasonably assure the appearance of the defendant as required. Accordingly, the
6 Court orders the defendant detained pending trial.

7 This Order supplements the Court's findings at the detention hearing and serves as written
8 findings of fact and statement of reasons as required by Title 18, United States Code, Section 3142(i).

9 The Bail Reform Act of 1984 sets forth the factors the Court must consider in determining
10 whether pretrial detention is warranted. In coming to its decision, the Court has considered those
11 factors, paraphrased below:

- 12 (1) the nature and seriousness of the offense charged;
- 13 (2) the weight of the evidence against the person;
- 14 (3) the history and characteristics of the person including, among other considerations,
15 employment, past conduct and criminal history, and record of court appearances; and
- 16 (4) the nature and seriousness of the danger to any person or the community that would be posed
17 by the person's release.

18 18 U.S.C. § 3142(g).

19 In considering the Pretrial Services report, the court file, the government's memorandum in
20 support of its motion, and the party proffers presented at the hearing, the Court finds the following
21 factors among the most compelling in reaching its conclusion that no combination of conditions can
22 reasonably assure the defendant's appearance as required.

23 First, Mr. Torres-Viera has very strong connections to Honduras. His parents, his three minor
24 siblings, and his grandparents still live there, and he speaks with at least his parents and siblings every
25 day. Mr. Torres-Viera also has a valid Honduran passport. Additionally, the government has proffered
26 that intercepted calls show that he communicated with individuals in Honduras about drug trafficking.

1 By contrast, Mr. Torres-Viera does not have strong ties to the United States. He has been in the
2 country for less than a year and a half. He has no employment history or assets. He listed no family in
3 the United States other than an aunt who has not responded to Pretrial Services' phone calls.

4 Nor would Mr. Torres-Viera have a stable living situation if released. Mr. Torres-Viera told
5 Pretrial that he had been living at his current residence for just two days prior to his arrest and that his
6 uncle had paid the rent. The government proffered that the "uncle" who had paid the rent was the
7 alleged leader of the drug-trafficking organization, Eduardo Alfonso Viera-Chirinos ("Eduardo"), who is
8 also charged in the indictment and is detained pending trial. With Eduardo and Mr. Torres-Viera's other
9 uncles in custody pending trial, with no other family in the United States, and without legal
10 employment, Mr. Torres-Viera would have no stable living situation if released.

11 The Court is also concerned that the defendant has no viable sureties. A friend came forward
12 and offered to sign an unsecured bond; however, the proposed surety has only known the defendant for a
13 short time, and the Court is concerned that she would not be able to exercise the amount of moral
14 suasion over the defendant required to ensure that he appears as required. The surety also stated that she
15 would not be able to post money or property, meaning that she would be judgment-proof if the
16 defendant were to flee. Finally, the government has proffered evidence that Mr. Torres-Viera provided
17 the surety's phone number to Eduardo when Eduardo asked for a phone number of someone who could
18 provide "work," which the government alleges is a common code term for drugs.

19 Based on the foregoing facts, the Court believes that, given the choice between staying in the
20 United States, where he may face many years in prison, and returning to Honduras, which he left just a
21 year and a half ago and where his family still lives, the defendant would be likely to flee back to his
22 family and his home country if released.

23 Given the nature of the crimes as alleged, as well as the history and characteristics of the
24 defendant, the Court determines that, on the record before it, there is no condition or combination of
25 conditions of release that can reasonably assure the defendant's appearance as required. Accordingly,
26 pursuant to 18 U.S.C. § 3142(i), IT IS HEREBY ORDERED THAT:

27 (1) Defendant is committed to the custody of the Attorney General for confinement in a
28 corrections facility;

1 (2) Defendant be afforded reasonable opportunity for private consultation with his counsel; and

2 (3) on order of a court of the United States or on request of an attorney for the government, the
3 person in charge of the corrections facility in which Defendant is confined shall deliver Defendant to an
4 authorized Deputy United States Marshal for the purpose of any appearance in connection with a court
5 proceeding.

6 **IT IS SO ORDERED.**

7 ~~August~~ __, 2019

8 *Sgt. 3*


HON. ELIZABETH D. LAPORTE
United States Magistrate Judge